



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,612	01/16/2002	Candice Hellen Brown Elliott	CLRV-003	9018

42304 7590 12/15/2005

CLAIRVOYANTE, INC.  
874 GRAVENSTEIN HIGHWAY SOUTH, SUITE 14  
SEBASTOPOL, CA 95472

EXAMINER

CASCHERA, ANTONIO A

ART UNIT PAPER NUMBER

2676

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/051,612	<b>Applicant(s)</b> BROWN ELLIOTT ET AL.	
	<b>Examiner</b> Antonio A. Caschera	<b>Art Unit</b> 2676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 34-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 10 and 34 is/are rejected.
- 7) ☒ Claim(s) 2-9, 11-18 and 35-42 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>09/21/05</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. Receipt is acknowledged of a request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e) and a submission, filed on 09/21/2005.

### ***Priority***

2. Acknowledgment is made of applicant's claim for priority under 35 U.S.C. 119(e).

### ***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on 09/21/05 was filed after the mailing date of the final office action on 08/31/05. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b). Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1, 10 and 34 are provisionally rejected under the judicially created doctrine of double patenting over claim 10 of copending Application No. 10/278,352. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows:

“a method of converting a source pixel data of a first format,” found in claims 1, 10 and 34, is disclosed on lines 8-9 of claim 10 in copending Application No. 10/278,352.

Also, “determining implied sample areas for each data value for each data point...,” also found in claims 1, 10 and 34, is disclosed on lines 10-11 of claim 10 in copending Application No. 10/278,352.

“determining resample areas for each emitter of each color...,” also found in claims 1, 10 and 34, is disclosed on line 12 of claim 10 in copending Application No. 10/278,352.

“forming a set of fractions for each said resample area whose denominators are a function of said resample area and whose numerators are said function of an area of each of said implied sample areas that at least partially overlaps said resample areas,” found in claims 1 and 34, is disclosed on lines 13-16 of claim 10 in copending Application No. 10/278,352.

“determining for each resample area a percentage overlap area of each overlapping said implied sample area with said resample area to obtain data values,” found in claim 10, is disclosed on lines 13-16 of claim 10 in copending Application No. 10/278,352.

Also, “multiplying said data value for each said implied sample area by its respective said fraction resulting in a product,” of claims 1, 10 and 34, is disclosed on lines 17-18 of claim 10 in copending Application No. 10/278,352.

“multiplying said data value for each said implied sample area by said percentage overlap area resulting in a product,” of claim 10, is disclosed on lines 17-18 of claim 10 in copending Application No. 10/278,352.

Finally, “adding each said product together to obtain luminance values for each said resample area,” of claims 1, 10 and 34, is disclosed on line 19 of claim 10 in copending Application No. 10/278,352.

5. Claims 1, 10 and 34 are provisionally rejected under the judicially created doctrine of double patenting over claims 21 and 30 of copending Application No. 10/278,352. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows:

“determining implied sample areas for each data value for each data point...,” found in claims 1, 10 and 34, is disclosed on lines 3-4 of claim 30 in copending Application No. 10/278,352.

“determining resample areas for each emitter of each color...,” also found in claims 1, 10 and 34, is disclosed on line 5 of claim 30 in copending Application No. 10/278,352.

“forming a set of fractions for each said resample area whose denominators are a function of said resample area and whose numerators are said function of an area of each of said implied sample areas that at least partially overlaps said resample areas,” found in claims 1 and 34, is disclosed on lines 6-9 of claim 30 in copending Application No. 10/278,352.

“determining for each resample area a percentage overlap area of each overlapping said implied sample area with said resample area to obtain data values,” found in claim 10, is disclosed on lines 6-9 of claim 30 in copending Application No. 10/278,352.

Also, “multiplying said data value for each said implied sample area by its respective said fraction resulting in a product,” of claims 1 and 34, is disclosed on lines 10-11 of claim 30 in copending Application No. 10/278,352.

“multiplying said data value for each said implied sample area by said percentage overlap area resulting in a product,” of claim 10, is disclosed on lines 10-11 of claim 30 in copending Application No. 10/278,352.

Finally, “adding each said product together to obtain luminance values for each said resample area,” of claims 1, 10 and 34, is disclosed on lines 12-13 of claim 30 in copending Application No. 10/278,352.

6. Claims 1, 10 and 34 are provisionally rejected under the judicially created doctrine of double patenting over claim 12 of copending Application No. 10/278,353. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows:

“a method of converting a source pixel data of a first format,” found in claims 1, 10 and 34, is disclosed on lines 8-9 of claim 12 in copending Application No. 10/278,353.

Also, “determining implied sample areas for each data value for each data point...,” also found in claims 1, 10 and 34, is disclosed on lines 10-11 of claim 12 in copending Application No. 10/278,353.

“determining resample areas for each emitter of each color...,” also found in claims 1, 10 and 34, is disclosed on line 12 of claim 12 in copending Application No. 10/278,353.

“forming a set of fractions for each said resample area whose denominators are a function of said resample area and whose numerators are said function of an area of each of said implied sample areas that at least partially overlaps said resample areas,” found in claims 1 and 34, is disclosed on lines 13-16 of claim 12 in copending Application No. 10/278,353.

“determining for each resample area a percentage overlap area of each overlapping said implied sample area with said resample area to obtain data values,” found in claim 10, is disclosed on lines 13-16 of claim 12 in copending Application No. 10/278,353.

Also, “multiplying said data value for each said implied sample area by its respective said fraction resulting in a product,” of claims 1 and 34, is disclosed on lines 17-18 of claim 12 in copending Application No. 10/278,353.

“multiplying said data value for each said implied sample area by said percentage overlap area resulting in a product,” of claim 10, is disclosed on lines 17-18 of claim 12 in copending Application No. 10/278,353.

Finally, “adding each said product together to obtain luminance values for each said resample area,” of claims 1, 10 and 34, is disclosed on line 19 of claim 12 in copending Application No. 10/278,353.

7. Claims 1, 10 and 34 are provisionally rejected under the judicially created doctrine of double patenting over claims 25 and 34 of copending Application No. 10/278,353. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows:

“determining implied sample areas for each data value for each data point...,” found in claims 1, 10 and 34, is disclosed on lines 3-4 of claim 34 in copending Application No. 10/278,353.

“determining resample areas for each emitter of each color...,” also found in claims 1, 10 and 34, is disclosed on line 5 of claim 34 in copending Application No. 10/278,353.

“forming a set of fractions for each said resample area whose denominators are a function of said resample area and whose numerators are said function of an area of each of said implied sample areas that at least partially overlaps said resample areas,” found in claims 1 and 34, is disclosed on lines 6-9 of claim 34 in copending Application No. 10/278,353.



“determining for each resample area a percentage overlap area of each overlapping said implied sample area with said resample area to obtain data values,” found in claim 10, is disclosed on lines 6-9 of claim 34 in copending Application No. 10/278,353.

Also, “multiplying said data value for each said implied sample area by its respective said fraction resulting in a product,” of claims 1 and 34, is disclosed on lines 10-11 of claim 34 in copending Application No. 10/278,353.

“multiplying said data value for each said implied sample area by said percentage overlap area resulting in a product,” of claim 10, is disclosed on lines 10-11 of claim 34 in copending Application No. 10/278,353.

Finally, “adding each said product together to obtain luminance values for each said resample area,” of claims 1, 10 and 34, is disclosed on lines 12-13 of claim 34 in copending Application No. 10/278,353.

### ***Response to Arguments***

8. Applicant’s arguments, see pages 13-15 of Applicant’s Remarks, filed 09/21/05, with respect to the 35 U.S.C. 102(e) and 103(a) prior art rejections of claims 1-18 and 34-42 have been fully considered and are persuasive. The prior art rejection of claims 1-18 and 34-42 has been withdrawn. Specifically, the Weldy reference does not explicitly determine resample areas as fractions, these fractions comprising the specific values as listed in the independent claims. Note, the remarks presented in the above listed pages were also discussed in the Interview conducted on 9/15/2005.

Art Unit: 2676

***Claim Objections***

9. Claims 2-9, 11-18 and 35-42 are objected to as being dependent upon a rejected base claim. These claims depend upon provisionally rejected, under the judicially created doctrine of double patenting, claims 1, 10 and 34 respectively above.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Antonio Caschera whose telephone number is (571) 272-7781. The examiner can normally be reached Monday-Thursday and alternate Fridays between 7:30 AM and 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella, can be reached at (571) 272-7778.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

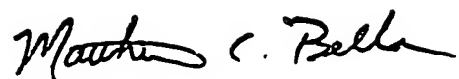
**or faxed to:**

**571-273-8300 (Central Fax)**

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Art Unit: 2676

aac  
*me.*  
11/22/05

A handwritten signature in black ink, reading "Matthew C. Bella". The signature is fluid and cursive, with the first name "Matthew" being more prominent than the last name "Bella".

MATTHEW C. BELLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600